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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/708,097

02/09/2004

Raul A. Tocci

BMCA9159.385

2096

27062

7590

01/22/2007

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EXAMINER

VIDAYATHIL, TRESA V

ART UNIT

PAPER NUMBER

3746

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

01/22/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/708,097		TOCCI ET AL.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Tresa V. Vidayathil		3746	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 February 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-4, 9 and 12 is/are allowed.
- 6) ☒ Claim(s) 5-8, 10 and 13-20 is/are rejected.
- 7) ☒ Claim(s) 11, 16, and 18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to because Figure 3 does not show how fluid is expelled from nozzle body 182. Even when poppet 184 is unseated from nozzle body 182, poppet 184 appears to fill almost the entire annular flow path 192. It is not visible how fluid exits nozzle assembly 180. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Specification***

2. The disclosure is objected to because of the following informalities:
- a. On p. 4, l. 4, remove the "a."
  - b. In para. 23, l. 5, replace "an" with "and."
  - c. In para. 34, l. 3, insert a space between "146" and "which."
  - d. In para. 35, l. 1, replace "157 the" with "157 that."
  - e. On p. 21, l. 4, replace "146,togain" with "146, to gain."
  - f. On p. 23, l. 7, insert a space after the period.
  - g. On p. 23, the last sentence describes how the plunger seals with the poppet and cites Figs. 5 & 6, which illustrate the bobbin. A reference to Fig. 3 would be more appropriate.
  - h. In para. 49, l. 1, replace "term" with "terms."
  - i. On p. 27, l. 2, replace "believer" with "believed."
  - j. On p. 27, l. 3, insert a "the" between "of" and "consumer."
- Appropriate correction is required.

***Claim Objections***

3. Claim 11 is objected to under 37 CFR 1.75(c), as being of improper dependent form for **apparently** failing to further limit the subject matter of a previous claim.

Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

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4. Claim 16 is objected to because of the following informalities:

- a. The word "movable" in l. 10 should be replaced with "movably."
- b. The word "and" in l. 13 should be replaced with "an."

Appropriate correction is required.

5. Claim 18 is objected to because of the following informalities: the words "wherein the step of 16" in l. 1 should be removed.

***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 5-8, 10, 13-15, and 17-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

8. Claim 5 recites the limitation "the enlarged upper head region" in ll. 3-4. There is insufficient antecedent basis for this limitation in the claim.

9. Claims 6 and 14 recite the limitation "the upper end" of said valve stem in cl. 6, l. 2 and cl 14, l. 2. There is insufficient antecedent basis for this limitation in the claims.

10. Claim 10 recites the limitation "said valve seat" in l. 2. There is insufficient antecedent basis for this limitation in the claim.

11. Claims 13 and 18 recite the limitation "the gap" in cl. 13, l. 4 and cl. 18, l. 4. There is insufficient antecedent basis for this limitation in the claims.

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12. Claims 14 and 15 recite the limitation "the at least one permanent magnet" in ll. 3-4. There is insufficient antecedent basis for this limitation in the claims.

13. Claim 15 recites the limitation of "the abutting" relationship between the pliable nipple and the at least one permanent magnet in ll. 2-4. There is insufficient antecedent basis for this limitation in the claim.

14. Claim 17 recites the limitations "the step of providing a pumping assembly" in ll. 1-2. There is insufficient antecedent basis for this limitation in the claim.

15. Claim 19 recites the limitation "the step of providing pumping section" in ll. 1-2. There is insufficient antecedent basis for this limitation in the claim.

16. Claim 20 recites the limitation "the step of providing a valve stem" in ll. 1-2. There is insufficient antecedent basis for this limitation in the claim.

17. Claims 16 and 18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 16, ll. 3-4 recites "providing a pump assembly having a drive section and a pump section." Claim 16, l. 8 recites "providing a pump assembly within the pump section." The pump assembly cannot include the pump section and be within the pump section simultaneously. Therefore, claims 16 and 18 are indefinite.

18. Claim 19 and 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which

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applicant regards as the invention. Claim 19 recites second positive recitations for the following previously claimed elements: a valve stem, an upper pliable nipple, and the abutting relationship between a fixed component and the upper pliable nipple. Claim 20 recites a second positive recitation for a valve stem. Therefore, claims 19 and 20 are indefinite in the sense that it is unclear how many such elements are claimed.

19. The numerous 35 U.S.C. 112 rejections prevented the application of prior art on specific claims, see rejections under 35 U.S.C 112, 2<sup>nd</sup> paragraph above. However, to the extent the claims could be understood, a search was carried out, and relevant prior art is cited on PTO Form 892. The lack of a rejection over prior art should not be interpreted as an indication that said claims contain allowable subject matter.

#### ***Allowable Subject Matter***

20. Claims 1-4, 9, and 12 are allowed.

21. The following is an examiner's statement of reasons for allowance: The prior art does not teach in combination with the other limitations of the first independent claim, a valve stem movably located within the passageway and having a lower end including a poppet head.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."



**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tresa V. Vidayathil whose telephone number is (571) 272-3436. The examiner can normally be reached on 9AM - 5:30PM, Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ehud Gartenberg can be reached on (571) 272-4828. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Ehud Gartenberg  
Supervisory Primary Examiner  
Art Unit 3746



Tresa V. Vidayathil

0116 2007

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SUPERVISORY PATENT EXAMINER